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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,348	04/01/2004	Serge Bisson	44117-138	5328
20277	7590	06/13/2006	EXAMINER	
MCDERMOTT WILL & EMERY LLP			GABLER, PHILIP FRANCIS	
600 13TH STREET, N.W.			ART UNIT	
WASHINGTON, DC 20005-3096			PAPER NUMBER	
			3637	

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/814,348	BISSON ET AL.	
	Examiner	Art Unit	
	Philip Gabler	3637	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 28 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7-16, 18-23 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-16, 18-23 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

1. It is noted that a drawing objection is withheld at this time in view of the 35 USC 112 rejections below.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-5, 7-16, 18-23, and 25 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claims 1, 13, and 14 recite the blades and partitioning wall ends engaging opposite connecting and support elements (of support walls). It is unclear how the blades can engage opposite connecting and support elements as the partitioning wall (with blades, element 10) is not large enough to reach between two support walls.
5. Claims 20-23 recite connecting and support elements projecting from the partitioning wall. It is unclear whether this is the same partitioning wall recited in preceding claims 13 and 14 or if it is a new and separate limitation.
6. Claims 2-5, 7-12, 14-16, 18-23, and 25 are deemed indefinite as being dependent on indefinite claims.

7. Note that the lack of clarity resulting in the above 35 USC 112 rejections is caused by the use of the term “partitioning wall” to describe both elements 8 and 10. Features of “the partitioning wall” recited in the claims are clearly present on the walls, but only selectively (e.g. wall 8 comprises a connecting element but not blades, while wall 10 comprises blades but not a connecting element).

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 2, 5, 7, 8, 13, 14, 16, 18, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Bitel (US Patent Number 4577773).

10. Regarding claims 1 and 13, Bitel (Figures 1 and 3) discloses a partitioning/fastening arrangement for a partitioning wall in a drawer comprising: a partitioning wall (12) having a pair of elongated blades (56) in the partitioning wall [Note that the limitation “punched” is a product by process limitation. The product itself does not depend on the process of making it. The limitation “punched” would not be expected to impart distinctive structural characteristics to the device.] and projecting sideways from the partitioning wall adjacent ends thereof at a predetermined height of the partition wall, each blade extending vertically along a corresponding adjacent end of the partitioning wall and comprising a lower ramp surface (viewed as angles B) defined

by the partitioning wall and said predetermined height; and opposite connecting elements (42, 44, and surrounding area) respectively projecting from the support walls at heights matching with the height of the blades of the partitioning wall when the partitioning wall is in operative position between the support walls (20, 22), the connecting elements having retaining channels (42, 44) in which the ends of the partitioning wall are uprightly slideably engageable, the retaining channels having opposite side locking lips (viewed as A in Exhibit 1) forming guiding slots for passage of a section of the partitioning wall extending between the connecting elements, the ramp surfaces of the blades of the partitioning wall being shaped and sized for facilitating insertion of the blades in the retaining channels and for respectively and progressively press-fitting against inner sides of said channels behind the locking lips when the partitioning wall is in the operative position (the press-fit would be progressive based on the shape of 44 of the retaining channel).

11. Regarding claims 2 and 14, Bitel further discloses opposite support elements (46) respectively projecting from the support walls at another height with respect to the connecting elements, the support elements respectively having guiding slots (48) in which the ends of the partitioning wall are slideably engageable, the guiding slots of the support elements being aligned with the guiding slots of the retaining channels of the connecting elements (see Figure 3).

12. Regarding claims 5 and 16, Bitel further discloses the support elements extend below the connecting elements (see Figure 1).

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13. Regarding claims 7 and 18, Bitel further discloses the blades extend directly at the ends of the partitioning wall.

14. Regarding claims 8 and 19, Bitel further discloses a seating flange (58) projecting from a bottom end of the partitioning wall and extending laterally with respect thereto.

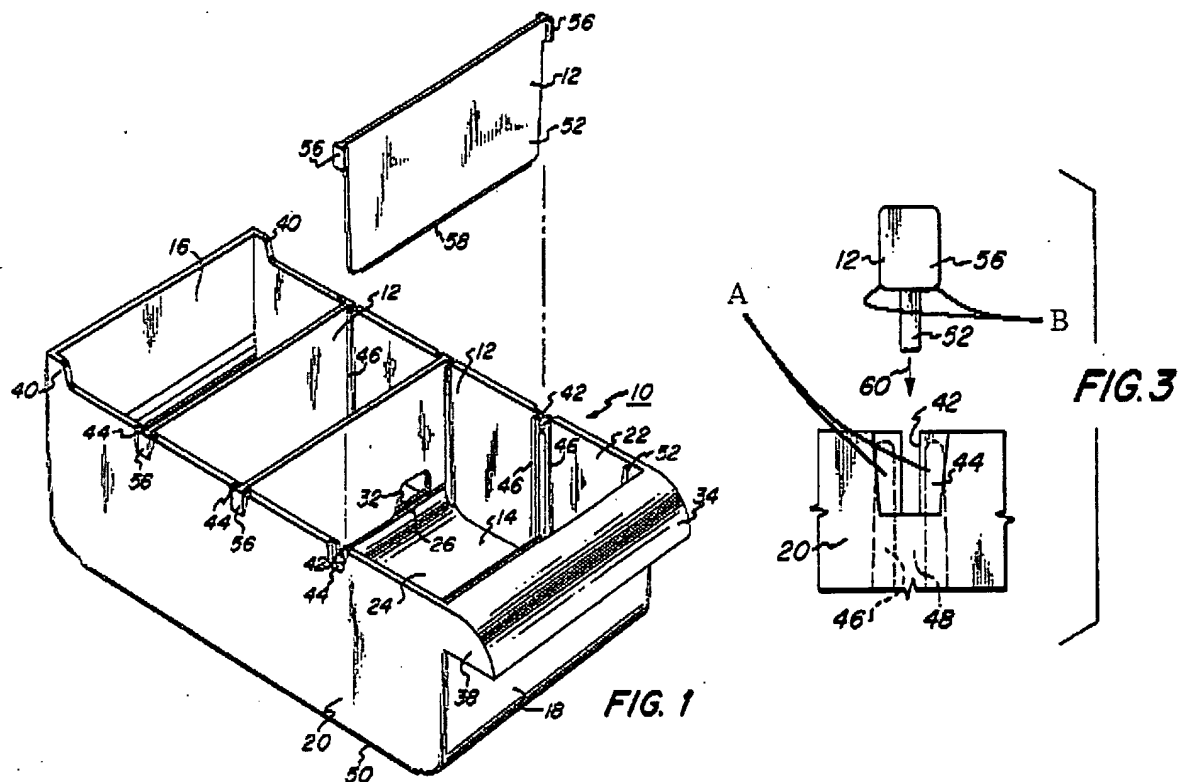


Exhibit 1: Bitel '773 Figures 1 and 3

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 1-4 and 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollenstein (Swiss Patent Number 644742) in view of Bitel.

17. Regarding claims 1 and 13, Hollenstein (Figures 1 and 2) discloses a drawer partition system comprising a partitioning wall (4); and opposite connecting elements (23, 27) respectively projecting from support walls (32, note that while only one support wall is shown, it is inherent that more would be present in a drawer arrangement) at heights matching with the height of a partitioning wall (4) when the partitioning wall is in operative position between support walls, the connecting elements having retaining channels (27) in which the ends of the partitioning wall are uprightly slideably engageable, the retaining channels having opposite side locking lips (viewed as B in Exhibit 2) forming guiding slots for passage of a section of the partitioning wall extending between the connecting elements. Hollenstein does not disclose a pair of blades in the partitioning wall. Bitel discloses a partition arrangement for a drawer including elongated blades (56) in a partitioning wall and projecting sideways from the partitioning wall adjacent ends thereof at a predetermined height of the partition wall, each blade extending vertically along a corresponding adjacent end of the partitioning wall and comprising a lower ramp surface (viewed as angles B) defined by the

partitioning wall and said predetermined height, the blades fitting in channels (42, 44). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hollenstein's partitioning system to comprise elongated blades on both sides of the partitioning wall as taught by Bitel because this arrangement could allow for more control over the fit of the partitions.

18. Regarding claims 2 and 14, Hollenstein further discloses opposite support elements (21, 26) respectively projecting from the support walls at another height with respect to the connecting elements, the support elements respectively having guiding slots (26) in which the ends of the partitioning wall are slideably engageable, the guiding slots of the support elements being aligned with the guiding slots of the retaining channels of the connecting elements (see Figure 2).

19. Regarding claims 3 and 15, Hollenstein further discloses the connecting (23, 27) and support (21, 26) elements comprising longitudinal extrusions (21, 23) made in the support walls (32) and projecting on a side thereof, with retaining channels (27) and guiding slots (26) being made in and extending crosswise to the extrusions of respective ones of the connecting and support elements.

20. Regarding claim 4, Hollenstein further discloses the extrusions have substantially rounded upper and lower surfaces (viewed as curves A in Exhibit 2) for joining the support walls.

21. Regarding claim 9, Hollenstein further discloses an additional connecting element (24) projecting from at least one of the support walls at a height to receive a partitioning wall (4), the additional connecting element being like the connecting element

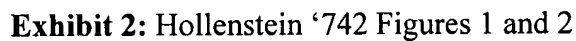


already made in said at least one of the support walls but projecting on a side of said at least one of the support walls opposite to a side on which the connecting element already made in said at least one of the support walls projects (see Figure 2).

22. Regarding claim 10, Hollenstein further discloses an additional connecting element (24) projecting from at least one of the support walls at a height to receive a partitioning wall (4), and an additional support element (22) projecting from said at least one of the support walls at another height with respect to the additional connecting element, the additional connecting and support elements being respectively like the connecting and support elements (21, 23, 26, 27) already made in said at least one of the support walls but projecting on a side of said at least one of the support walls opposite to a side on which the connecting and support elements already made in said at least one of the support walls project (see Figure 2).

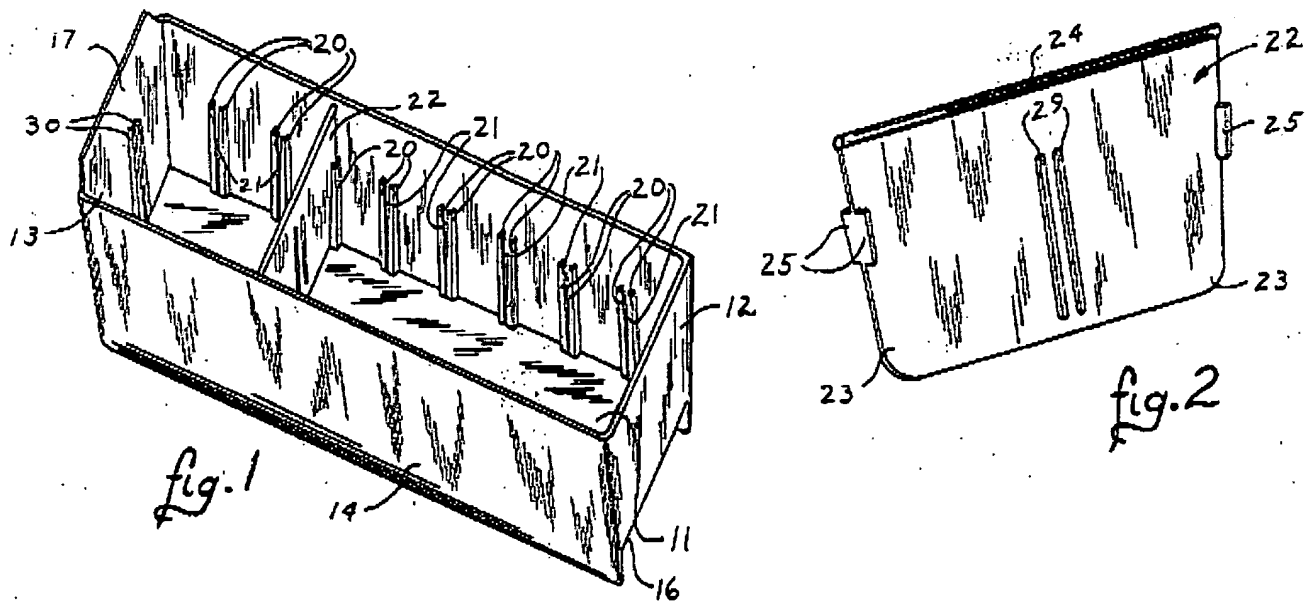
23. Regarding claim 11, Hollenstein further discloses the connecting elements of said at least one of the support walls extend successively one above the other, and the support elements of said at least one of the support walls extend successively one above the other (see Figure 2).

24. Regarding claim 12, Hollenstein further discloses the connecting and support elements comprise longitudinal extrusions made in the support walls and projecting on respective sides thereof, the retaining channels being made in and extending crosswise to the extrusions of the connecting elements, the guiding slots of the support elements being made in and extending crosswise to the extrusions of the support elements.



25. Claims 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollenstein in view Bitel and further in view of Kleinert et al. (US Patent Number 4436215). Hollenstein, when modified by Bitel as described above, discloses a partitioning system as recited in claim 14 as well as connecting and support elements as recited in claims 20-23, but does not disclose similar connecting and support elements on a partitioning wall in addition to the support walls. Kleinert (Figures 1 and 2) discloses a partition system for a drawer including a partitioning wall (22) comprising connecting/support elements (29) like the connecting/support elements (30) of his

support walls (13, etc.), the partitioning wall capable of forming a support wall for another partitioning wall. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hollenstein's partitioning wall, in his partitioning system previously modified by Bitel, to include connecting/support elements on his partitioning wall in addition to those on his support walls as taught by Kleinert because this would allow a more partitions to be added to the system and increase its versatility.

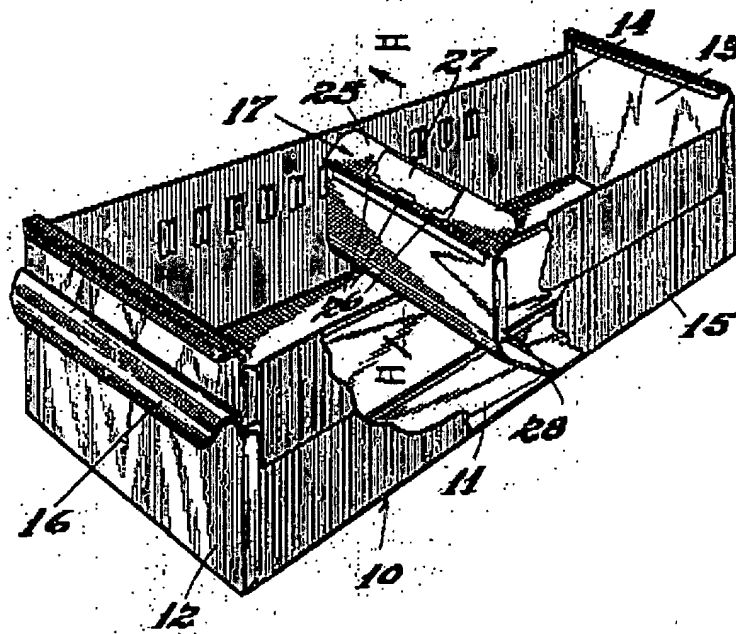


Kleinert et al. '215 Figures 1 and 2

26. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bitel in view of Dunham (US Patent Number 3227504). Bitel discloses a partitioning system as recited in claim 13 but does not include a label holding flange on the partitioning wall.

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Dunham (Figure 1) discloses a divider system for a drawer (10) including a partitioning wall (17) having a label holding flange (25) slantingly projecting from a top end of the partitioning wall. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bitel's partitioning wall to include a label holding flange because this arrangement would provide a convenient mounting area for an indicia bearing label or card to help organize contents of the drawer.



Dunham '504 Figure 1

### ***Response to Arguments***

27. Applicant's arguments, see the first page of the remarks, filed 28 April 2006, with respect to the 35 USC 112 rejections of claims 6, 17, and 24 have been fully considered and are persuasive. The 35 USC 112 rejections of claims 6, 17, and 24 have been withdrawn.

28. Others of Applicant's arguments filed 28 April 2006 have been fully considered but they are not persuasive.

29. Regarding the argument that the prior art references (namely Bitel) do not describe all components of the claimed invention, it is clear that all limitations are met as described in the rejections above. Bitel's blade extends vertically along a corresponding adjacent end of his partitioning wall in the same manner as that of the claimed invention of the instant application. Further, Bitel discloses a "snug fit" for his wall (see for example column 3 line 58), not the loose connection suggested in the arguments.

30. Regarding the assertion that Hollenstein does not disclose blades, this was made clear in the initial rejection where Hollenstein was used as a base reference disclosing elements of the invention, but lacking blades. A teaching reference was used to show not only that blades are well known in the art, but that they may be used to adjust the fit of or further secure a partition, and that this would have been clear and obvious to one of ordinary skill in the art at the time of the invention.


31. The remainder of Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

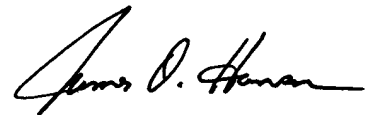
**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Gabler whose telephone number is (571) 272-6038. The examiner can normally be reached on Monday through Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PFG   
5/26/2006

  
JAMES O. HANSEN  
PRIMARY EXAMINER